

DAVID GLENN GREEN,
Petitioner,
Vs.
UNITED STATES OF AMERICA,
Respondent.

ORDER

Respondent requests permission to file an out of time response to Petitioner's motion to vacate. Respondent states that the Government did not receive a needed affidavit of trial counsel until the day of Respondent's last extension of time to respond. Respondent filed a response on February 6, 2006. For good cause shown, the Court will grant Respondent's motion.

Petitioner has filed a motion objecting to Respondent's extensions. Petitioner asserts that an affidavit from trial counsel is not necessary to resolve his case. A review of Petitioner's motion to vacate reveals that, among other things, he has asserted ineffective assistance of counsel claims based upon failure to investigate, failure to prepare for trial, and failure to file a suppression motion. As such, the Court finds that an affidavit from trial counsel is in all likelihood relevant to this case. Consequently, Petitioner's motion is denied.

THEREFORE, IT IS HEREBY ORDERED that:

1. Respondent's Motion to File Out of Time Response is **GRANTED**; and
2. Petitioner's Motion to Rescind the Court's Order Granting Additional Extension of Time is **DENIED**.

Signed: February 8, 2006

A handwritten signature in black ink, reading "Graham C. Mullen", written over a horizontal line.

Graham C. Mullen
United States District Judge

